

## Terrorism's Financial Lifeline: Can It be Severed?

by Kimberley L. Thachuk

### Key Points

**T**he attacks of September 11 and the global campaign against terrorism have put the spotlight on *rogue capital*, a growing problem for law enforcement and the financial sector. Using traditional and sophisticated techniques, terrorist and criminal groups have extended their reach beyond states to build multinational empires with pervasive, well-funded subsidiaries. Weak states, lax banking regulations, persistent corruption, and shadow financial systems compound the problem.

Terrorists and criminals generate, manipulate, and launder funds in different ways and for different ends, but the links between them are growing stronger. As direct state sponsorship declines, terrorists have shifted increasingly toward illicit moneymaking. The question is how best to expose this money lifeline, render it vulnerable, and ultimately sever it.

America has led the global effort to cut off the sources of money to these groups. It has worked through the Group of 8 and bilateral partners to strengthen initiatives against money laundering and manipulation. Yet compliance with such measures alone will not guarantee success. Economic assistance is needed to ease the domestic impact associated with the loss of illicit sources of foreign exchange in weak states. Helping such states to fight this problem is essential. It will entail strengthening justice systems and making bureaucracies more transparent to offset the increasing resort to corruption by those determined to circumvent stricter regulations.

To operate effectively, transnational terrorists and criminals need ready access to money and the ability to maneuver it quickly and secretly across borders. On a large scale, such money maneuvers can ripple across entire regions, embroiling global markets and threatening vital American economic interests as well as destabilizing other countries politically. The ability to move vast quantities of wealth rapidly and anonymously across the globe—sometimes combining modern-day wire transfers, faxes, and Internet connections with centuries-old practices, such as the *hawala*, of personal connections and a handshake—gives terrorist and criminal networks a strategic advantage over many states. Yet it also might be their vulnerability.

Terrorist manipulation and laundering of money has received particular attention since the attacks of September 11.<sup>1</sup> While some of the methods used by terrorists differ from those employed by organized crime groups, most are similar. As state sponsorship for terrorist groups has steadily declined in recent years, terrorists increasingly have resorted to crime to sustain activities. Like organized crime groups, terrorists are engaged in moneymaking schemes that are illegal in most states. Such activities may include drug trafficking; extortion and kidnapping; robbery; fraud; gambling; smuggling and trafficking counterfeit goods, humans, and weapons; soliciting both direct sponsorship and contributions and donations from states; selling publications (legal and illegal); and deriving funds from legitimate business enterprises.

While impossible to quantify accurately, it is estimated that illicit financial transactions account for between 2 and 5 percent of the world's gross domestic product (approximately

\$600 billion to \$1.5 trillion). Drug trafficking alone nets between \$300 billion and \$500 billion, with trafficking in humans and small arms, counterfeiting (\$150 billion to \$470 billion), and computer crimes (\$100 billion) constituting the remainder of the "gross criminal profit." More significant are the direct threats to national security when terrorists and organized crime groups launder money to underwrite and strengthen operations and global reach. The key question for policymakers is how to expose the money trail and render it vulnerable; terrorists and international criminal groups simply cannot function without ready access to money and an ability to move it efficiently.

### Moving Cash Illicitly

Under U.S. law, *money laundering* is defined as the "movement of illicit cash or cash equivalent proceeds into, out of, or through United States financial institutions."<sup>2</sup> While engaging in both licit and illicit transactions, terrorists and criminal groups must be able to obscure the movements of cash, especially as these movements pertain to the funding of ongoing illegal operations. This is important regardless of whether the money is being laundered to disguise its origins or to distribute it clandestinely to network cells of operatives, as is the case with terrorist organizations. The process of laundering involves three stages: placement, layering, and integration.

*Placement* typically involves a person who is adept at exploiting loopholes in financial regulations to move money quickly through the international

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banking system. Such an individual might charge a third of the total amount being laundered. Offshore banking centers that are largely unregulated or lack transparency are often the preferred vehicles. At approximately a dozen locations in the Caribbean, Southeast Asia, and Europe, for example, money may be deposited with the assurance of secrecy and tax exemption. The United Nations International Drug Control Programme estimates that approximately one-half of the world's money flows through offshore banks. Not only do terrorist groups and criminal networks benefit from the comparative lack of scrutiny at these offshore banks, but they often can obtain a higher rate of return from banking in safe havens.

*Layering* is the process of redistributing funds to obscure their origins and give them the appearance of being legitimate. Such layering techniques as *smurfing*, or conducting multiple cash deposits or wire transfers for amounts under the standard \$10,000 reporting requirement for a Currency Transaction Report, are the most popular devices. Another technique is to create multiple accounts under different names and then move the money back and forth through these accounts to complicate detecting their origins. Because of heightened monitoring of bank accounts since the September 11 terrorist attacks, layering has become exceedingly difficult to accomplish, at least in the United States and close partner countries.

*Integration* involves the use of funds for other transactions, such as payments to persons or front companies involved in the laundering conspiracy. The money is further invested in legitimate businesses, real estate, or money-generating activities to hide its origins and to increase profits. In recent years, up to \$7 billion is estimated to have moved illegally from Russia through the Bank of New York alone. Over time, such sums can facilitate the control by terrorist and criminal groups over a number of major banks and private businesses. With such significant economic power, terrorist and criminal groups are able to suborn public officials and legislators to obstruct unfavorable legislation or to gain preferential treatment in a number of sectors. It also can contribute to instability in the form of rampant inflation, an

exponentially increased dependence on a false economy, widespread corruption, and increasing violence and lawlessness in weak states.

## Effects of Globalization

Traditionally, illicit money movements involved black market currency exchanges and parallel remittances. In the case of black market money exchanges, the proceeds of criminal activity would be generated in one currency, sold to a currency broker, then exchanged for a different currency. To thwart illicit transactions, most initial money laundering legislation focused on large cash deposits in excess of \$10,000. Given the physical bulk of cash proceeds raised by criminal activity at the retail

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level (for example, drug sales), disclosure of large deposits was an important step forward. As recently as 1999, 70 to 80 percent (approximately \$200 million) of the U.S. Treasury Forfeiture Fund came from currency seizures, as most illegal money maneuvers continue to be in cash. To make the tracking of funds difficult, however, the manipulators of money shifted tactics and began to buy jewelry, real estate, stocks and bonds, vehicles, furniture, antiques, and other expensive items to be resold at a later date.

As law enforcement has refined its ability to detect and interdict illegal money movements, criminal methods have become significantly more complex.<sup>3</sup> Intricate financial trading schemes, at times involving "U-turn" movements of funds through various shell companies in several countries, are more representative of money laundering today. Yet the more transactions that occur, the longer the

paper trail becomes—and thus the greater possibility for detection, tracking, and successful prosecution.

It is clear that financial globalization generally has been a boon for money manipulators. With advancements in banking techniques and information-age technology, criminals more easily can find and penetrate states whose laws (or lack thereof) make them susceptible to criminal financial transactions. We are witnessing the increasing criminal exploitation of on-line banking, automated teller machines, and Internet casinos; the misuse of trusts and other noncorporate vehicles (such as credit card fraud) to launder and obscure money; the employment of lawyers, accountants, and other professionals to act as legitimate cloaks for transactions; the greater use of methods other than cash in laundering and manipulation schemes; and an upsurge in suspicious wire transfer activity involving shell and front companies. All this would be daunting enough were it not for the fact that the increasing reliance by terrorists on laundered and manipulated money means that what may appear to be a law enforcement problem is in fact a national security threat with criminal elements.

Among all these trends, the importance of offshore banking cannot be exaggerated. While proximity to major financial centers was once paramount, now anonymity and remote locations in the world are more beneficial for anyone wishing to obscure the source of money. For small countries that have few or no natural resources or industry, banking is an attractive way to become incorporated into the global economy. For example, with 570 banks, 2,240 mutual funds, 500 insurance companies, and 45,000 offshore businesses, the Cayman Islands (with just 350,000 inhabitants) have benefited from assets exceeding \$670 billion. Other safe havens—such as Antigua and Barbuda, Bahrain, Dominica, Grenada, Liechtenstein, Nauru, Niue, the Seychelles, Tuvalu, and Vanuatu—quickly have realized the opportunities for healthy profits in the offshore banking and business market.

The patterns of troublesome offshore banking practices are familiar. The states in question enact laws that establish strict bank secrecy, criminalize the release of customer information, prohibit cooperation with international law enforcement, and allow the licensing of banks that have neither personnel nor a

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Kimberley L. Thachuk is a senior research fellow in the Institute for National Strategic Studies at the National Defense University. Dr. Thachuk may be reached by phone at (202) 685-2377 or by e-mail at [thachukk@ndu.edu](mailto:thachukk@ndu.edu).

physical presence in the country. Further, the creation of anonymous companies, asset-protection trusts, numerous tax advantages, and even the sale of economic citizenship provide advantages to terrorists and criminals who need to conceal and manipulate money efficiently. Trusts, in particular, are generally the source of operating funds for charities, some of which have recently been revealed as raising and manipulating money for terrorist organizations. Not only have these countries cut Faustian bargains to make quick profits, but they also have used their sovereign status to establish relations with banks in other states. Hence, they are moving rogue capital into the international financial system via legal state channels. In addition to the manipulation and laundering of money, many safe havens also are acting as transit zones for illegal arms, drugs, and smuggled and trafficked humans.

## Contrasting Money Flows

Criminals and terrorists manipulate money in somewhat different ways. Organized criminal activity is motivated by simple profit—amassing staggering sums either legally or illegally. For terrorist groups, though, the money (however amassed) is a means to other ends.

Generally, organized criminal activity, such as drug trafficking, generates such great quantities of small bills that traffickers are known to weigh money rather than count it. The retail transactions of drugs are mostly in 5-, 10- and 20-dollar bills such that some distributors accumulate 1,000 to 3,000 pounds of bills on a monthly basis, which means that it must be carried in suitcases, on the persons of human carriers known as *mules*, or shipped in cargo containers.<sup>4</sup> The money is often a liability, as it necessitates a near-constant search for safe storage, discreet bankers to help invest it legitimately, and any number of schemes to obscure its origins. This situation leaves the operations of international criminals vulnerable to disruption by law enforcement and other officials.

Terrorists, however, are interested in sustaining an interlocking global cell structure and finding ways to distribute money discreetly. Logistically, the biggest obstacle that terrorists face is bank reporting requirements. Groups such as Al Qaeda must find ways to disaggregate and distribute significant

amounts of money into smaller denominations to sustain or expand a network of comparatively small cells (typically 3 to 4 operatives) that do the recruitment and conduct operations. Additionally, if the money is derived from criminal activity, such as narcotics trafficking, it must first be amassed, laundered, and *then* redistributed. Again, the more transactions that occur, the more vulnerable these groups are to detection.

## A Shadow System

The *hawala* (or trust) system is an alternate method by which Islamic terrorists and organized crime groups distribute money.<sup>5</sup> The system works on an honor scheme, with transaction records being kept only until the money is delivered, at which time they are destroyed. Anyone can go to a *hawala* dealer in thousands of cities around the world and have any quantity of cash transferred to any place on the globe in a matter of hours. In this way, no cash moves across a border or through an electronic or financial transfer system. The sender typically

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identifies neither himself nor the recipient. Rather, a code word is used that will allow the recipient to collect the cash from a trusted associate of the originating *hawala* dealer (or *hawaladar*). Over time, the accounts between dealers are balanced through future money transfers or exchanges between the two *hawaladars* or a number of *hawaladars* in their circle of associates. The accounts may be reconciled by mutual agreement as an exchange of money or goods.

The ancient Chinese used a similar system called *fei qian*, or flying money, which Arab traders adopted to avoid robbery on the Silk Road. Millions of hardworking Pakistanis, Indians, Filipinos, and others living abroad use the system to send remittances home to family members. *Hawala* merchants typically charge a 1 percent commission for a completed transaction; their main profit comes from currency fluctuations and extra fees for moving large amounts of money for big clients, who at times

happen to be drug traffickers and smugglers of other illicit goods.

In September 2001, President George W. Bush listed 27 terrorist organizations and individuals whose assets were to be blocked in American financial institutions. Since then, more than 202 entities and individuals have been identified for punitive financial action worldwide. The principals behind the Al Qaeda financing network reportedly are Al Barakaat and Al Taqwa/Nada Management Group. Al Barakaat is a Somali-based international financial conglomerate with operations in over 40 countries, including the United States. The organization's founder, Shaykh Ahmed Nur Jemale, reportedly is closely linked to Osama bin Laden and has used Al Taqwa/Nada Group to facilitate the financing and operations of Al Qaeda and other terrorist organizations, such as Hamas. Before its U.S. operations were closed down, Al Barakaat reportedly wired at least \$500 million in annual worldwide profits to the company's central money-exchange office in the United Arab Emirates. Al Qaeda allegedly received a flat 5 percent cut of that money, amounting to approximately \$25 million a year.

## Sources of Funds

Abuse of charitable organizations poses another problem. A number of Islamic organizations allegedly have been penetrated and manipulated by terrorist groups such as Al Qaeda. In other instances, terrorists have formed charitable organizations as fronts for distributing money to international networks. In both cases, it is likely that numerous innocent citizens have been contributing to what they think are charities for causes such as refugee resettlement and the nourishment of children in Palestine. One of the largest such charitable organizations in the United States, the Holy Land Foundation, recently had its assets frozen by the U.S. Government for its alleged funding of Hamas activities. The Holy Land Foundation raised a reported \$13 million from Americans last year. Other moneymaking schemes include raising money from wealthy patrons and providing seed funding to start-up terrorist cells. It further involves shake-downs and extortion, protection rackets, racketeering, and credit card fraud.



A significant revenue source for terrorist networks is the trafficking and smuggling of narcotics, arms, and people. Al Qaeda has been supported by the trafficking of heroin—if not directly, at least indirectly via the Taliban in Afghanistan. Heroin destined for European markets originates primarily in the Golden Crescent region of Southwest Asia, which includes parts of southern Afghanistan, northern Pakistan, and eastern Iran, as well as Central Asia. In 2000, Afghanistan was estimated to have produced between 3,276 and 3,656 metric tons of opium. This represents about 70 percent of the world's supply and is valued between \$190 and \$212 million. The Taliban allegedly replaced smaller criminal traffickers and exercised a virtual monopoly for drugs exported from that country.

The illicit sale of gold, diamonds, and other precious gems is another method Al Qaeda uses to generate and hide revenues. Diamonds purchased illegally and below fair market value from rebels in Sierra Leone are then resold in Europe at a significant profit. Gems are easy to hide, generally maintain their value, and are virtually untraceable. Gold is often used by *hawaladars* to balance the accounts. Its origins also are untraceable because it can be smelted, made into jewelry, and reconstituted in a variety of forms. Gold is probably more easily manipulated than gems because it can be deposited on account without a transaction report being required. Dubai is one of the world's least regulated gold markets. Situated as it is at the center of the Gulf, Africa, and South Asia, it is reportedly one financial hub for militant groups that use gold for illicit purposes.

## Bin Laden's Terror Capital

Since September 11, \$34 million in terrorist assets, including \$27 million belonging to Al Qaeda and bin Laden, have been frozen in the United States. A total of 161 nations have blocked the assets of known terrorist organizations, amounting to another \$70 million. Action also is being taken to disrupt severely the misuse of the *hawala* system and other underground remittance systems used by bin Laden, Al Qaeda, and other terrorist organizations.

Not surprisingly, Osama bin Laden excels at amassing and distributing large sums of

money to support his terrorist schemes. His main sources for financial support include his personal wealth, estimated between \$280 million and \$300 million, funds siphoned from overt Muslim charities, and wealthy well-wishers, especially in the Gulf States. Allegedly, a wide variety of international banks in the Gulf are used to manipulate and move funds using business front organizations owned by bin Laden. Mohammad Jamal Khalifa, bin Laden's brother-in-law, is responsible for man-

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aging parts of the financial network that deal with major investments in Malaysia, Mauritius, the Philippines, and Singapore.<sup>6</sup> Reportedly, bin Laden has funded a number of network cell operating expenses, including accommodations, safe houses, cars, and payments to operatives for the recruitment of new members. His contributions have further purchased explosives and key components for explosive devices. At least \$5,000 is known to have been transferred from bin Laden holdings to operatives in Yemen to fund the attack against the U.S.S. *Cole* in 2000. The investment for bin Laden to mount the September 11 attacks is estimated to have been approximately \$500,000, while the total costs to the United States for cleanup, property losses, and Federal Government bailouts will exceed \$135 billion.

## Addressing the Problem

Although financial manipulation and money laundering have long been stigmatized in various resolutions by the United Nations and other intergovernmental organizations, broad-based declarations generally have lacked muscle. The focal point for more serious practical cooperation has been the Group of 8 (G-8), which in 1989 established the Financial Action Task Force (FATF) on Money Laundering. While this task force does not have universal membership and operates on consensus, the effect of peer pressure by this multidisciplinary, intergovernmental organization on states that do not comply with its mandates is nevertheless significant. It is composed of 29 member states,

as well as international organizations, such as the United Nations, European Union, and World Bank.

The most important FATF contribution is setting standards. It maintains a list of 40 recommendations for combating money laundering in addition to publishing a bulletin of noncooperative states maintained by the FATF Non-Cooperative Countries and Territories Initiative. These measures have become the de facto international anti-money-laundering standard. They cover financial systems and their regulation, criminal justice systems, including law enforcement, and international cooperation. The recommendations allow flexibility in implementation according to particular circumstances and existing laws and represent general principles of action to which states have made a political commitment to adhere.

Working alongside the FATF is the Financial Stability Forum (FSF) Offshore Working Group, which focuses almost exclusively on offshore financial centers. Convened in 1999 at the request of the Group of 8 finance ministers, the FSF promotes international financial stability through information exchange and international cooperation in financial supervision. The Working Group on Offshore Financial Centers is charged with considering the impact and significance of offshore financial centers in relation to global financial stability. Jurisdictions are categorized in terms of their financial supervision, cross-border cooperation, and transparency. The weaker states—such as Antigua and Barbuda, Aruba, the Bahamas, Cayman Islands, Turks and Caicos, and Vanuatu—have been identified as undermining efforts to strengthen the global financial system through their lack of cooperation and low-quality supervision of financial transactions.

Following the attacks of September 11, the FATF expanded its mission beyond money laundering to include an effort to combat terrorist financing. Eight special recommendations with regard to terrorist financing were implemented in October 2001, coupled with an appeal to all FATF members for immediate compliance. The measures range from requiring members to provide closer scrutiny of transactions with noncooperative countries to prohibiting financial transactions with these countries.

Yet these measures are not entirely new. In October 1995, President William Clinton signed Presidential Decision Directive 42, which explicitly recognized that international criminal activity poses a threat to U.S. national security. Specifically, President Clinton noted the number of egregious overseas money laundering centers and ordered the Departments of Justice, State, and Treasury, the Coast Guard, the National Security Council, the intelligence community, and other Federal agencies to increase and integrate efforts against international criminal activity and money laundering. Interagency teams began to negotiate with known money laundering safe havens. More than a dozen countries were identified as vulnerable to money laundering, and these were targeted with a two-pronged approach: increased bilateral law enforcement cooperation using the critical *nowhere to hide* principle and *warnings* about consequences of failing to take action.

The consequences of failing to take action continue to include the effective use of International Emergency Economic Powers Act authority to block foreign business and individual assets, as well as prohibiting American entities from dealing with them. The Office of Foreign Assets Control oversees a sanctions program that includes prohibitions against trading with identified enemies of the United States as set forth in a variety of lists generated by different agencies in the U.S. Government. These include not only the names of known money launderers and terrorists but also members of narcotics cartels and individuals identified in the Foreign Narcotics Kingpin Designation Act.

Particularly successful has been cooperation between and among financial intelligence units (FIUs). These bodies are the vehicles for much informal cooperation between law enforcement agencies, especially in the area of investigative information exchanges. FIUs receive international suspicious activity reports (required under their respective domestic laws), analyze financial information, disseminate information to domestic agencies, and generally exchange information globally. The U.S. Financial Crimes Enforcement Network (FinCEN) is in charge of enhancing the international exchange of financial intelligence through the FIUs. In 2000, FinCEN arranged 159 information exchanges between FIUs.<sup>7</sup>

## Post-9/11 Initiatives

The events of September 11 pushed money laundering and the financing of terrorism to the forefront of domestic and foreign policy concerns. President Bush has emphasized that the fight against terrorists cannot be won without attacking the money that supports them: “the first strike in the war against terror targeted the terrorists’ financial support.” As a result, Congress approved the USA PATRIOT Act (2001).<sup>8</sup> This act builds on and strengthens many of the previous money laundering acts.<sup>9</sup> Among other things, it amends Federal law governing a range of illegal monetary transactions, including money being manipulated for the purposes of corruption of officials. It further prescribes guidelines under which the Secretary of the

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Treasury may require domestic financial institutions and agencies to take specified measures if reasonable grounds exist for concluding that jurisdictions, financial institutions, types of accounts, or transactions operating outside or within the United States are of primary money laundering concern.

Along with these initiatives, asset forfeiture laws have been toughened substantially. Funds that are found to have been laundered are subject to seizure from interbank accounts.<sup>10</sup> Legislation has closed off any possible loophole protecting legal money used by terrorists by stating, *inter alia*, that any assets used or intended to be used in the commission of a terrorist act or the proceeds of such an offense, foreign or domestic, also are subject to asset forfeiture.

In an effort to dismember Al Qaeda and other similar groups, the U.S. Customs Service is leading an interagency task force called Operation *Green Quest*. Its main target is abuse of the *hawala* system and the exploitation by Al Qaeda operatives of safe havens, such as Dubai, Hong Kong, and Malaysia. In the trial of the four terrorists convicted for their role in the 1998 terrorist bombings of the

American Embassies in Tanzania and Kenya, testimony was given that pointed to Dubai, Hong Kong, London, and Malaysia, as the end sources for the finances for the attacks. As a result of this and other evidence, in 1999 and early 2000, approximately \$225 million of assets linked to Al Qaeda through the Taliban were blocked in U.S. financial institutions.

To strengthen law enforcement overseas, the United States has entered into numerous mutual legal assistance treaties (MLATs), which provide for the exchange of financial information and evidence in criminal and related matters. MLATs are particularly helpful in asset forfeiture proceedings. To facilitate cooperation in joint investigations, the United States shares the profit of the seized assets with the state with which it cooperated and has urged foreign governments to share forfeited assets to improve cooperative international efforts.

The United States also has concluded a number of customs mutual assistance agreements (CMAAs), which use the World Customs Organization model. Using the CMAAs, the U.S. Customs Service assists in gathering information and evidence for trade fraud, smuggling, violations of export control laws, money laundering, and narcotics trafficking. Using agreements such as these, it is possible to attack the elusive problem of money manipulation, albeit more circuitously than enacting legislation. Unfortunately, if no prior agreement exists with a state, the United States is left in the difficult position of painstaking negotiation on even the most trivial details.

Shortly after the September 11 attacks, the U.S. Treasury Department established the Foreign Terrorist Asset Tracking Center that aims to disrupt terrorists’ ability to manipulate money in the international financial system. Financial data will be used to track and target terrorist financing worldwide and to dismantle terrorist organizations by attacking their financial structures. The Center is further mandated to uncover all links between terrorist groups and legitimate business and financial institutions.

Yet exclusive focus on overseas financial operations is inadequate. Many terrorist organizations are believed to have financial support within the United States. In July 2000, U.S. authorities arrested 18 Hizballah members operating a cigarette smuggling cell in Charlotte, North Carolina. A number of these people

were later indicted for immigration fraud, bribery and related conspiracies, and money laundering. Seven of the 18 are believed to have been providing support and resources directly to Hizballah. In addition to Al Barakaat, which is linked to Al Qaeda, another group—al-Itihaad al-Islamiya—has operated a fundraising organization in Minneapolis-St. Paul, Minnesota. These Minnesotan Somalis reportedly have wired more than \$75 million in donations to East Africa in recent years, mainly to impoverished relatives, along with smaller sums for guns and clan-based militia operations.<sup>11</sup>

## Next Steps

Internationally, the United States and its G-8 partners set the standard for regulations designed to expose money manipulation. There is, of course, no perfect way to suppress or interdict every conceivable financial transaction that might pose risks, even within the G-8. A more plausible, though still ambitious, policy goal would be to press for near-universal adoption of G-8 standards for transparent banking practices, utilizing a mix of inducements and pressures to obtain such adherence. The aim would be to increase dramatically the costs and risks of timely exposure that criminals and terrorists would face when they seek to move their funds into, out of, or through the publicly regulated banking system in any country.

This objective may be accomplished in a number of mutually reinforcing ways: first, through capacity-building measures; second, through measures to offset a surge in corruption that will result as financial regulations become stricter; and third, by securing compliance with current multilateral money laundering agreements and enforcing the measures against delinquent states as set forth in the extraordinary FATF session in late 2001.

*Capacity-Building.* Building capacity will entail a dedicated effort to assist countries to find alternate ways to generate foreign exchange. It also will entail training law enforcement and justice officials to conduct anti-money-laundering and manipulation investigations and prosecutions. The decrepit condition of some criminal justice systems constitutes an essential obstacle to attacking money laundering and manipulation. The criminal justice systems of some states will require reforms so that there is a better strategic fit with other state systems.

Much frustration, confusion, and uncertainty often accompany the reform of justice agencies. Two issues are critical. The first concerns the efficiency and effectiveness of criminal justice generally. Frequently, a change in the focus of jurisdictional responsibility requires a corresponding reassessment of the management and administrative structures. Systems that are marred by mismanagement of scarce resources, administrative duplication, poor communication, inefficiency, and ineffectiveness inevitably find it difficult to sustain the confidence of the publics that they serve, let alone be effective international partners. Second, justice agencies must aspire to the greatest possible openness in their work, making it subject to external audit and review. This helps justice institutions to

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garner respect both symbolically and practically, but, as with any bureaucratic entity, openness does not come easily.

*Curbing Corruption.* The relationship between money manipulation and corruption is often overlooked in combating terrorist and criminal activity; corruption is a critical enabler of terrorists and organized crime. Not only does corruption minimize opportunities for state control over the activities of international organized criminals and terrorists, but also it inevitably prevents real sovereignty from being exercised. Secret networks that operate fluidly across the frontiers of several states require impunity from detection and capture. The subornation of public officials through bribery, graft, collusion, or extortion is the vehicle by which to secure that exemption. Moreover, resort to such methods likely will increase in vulnerable states as international pressures begin to produce stricter financial controls at the national level.

Any effort to suppress corrupt practices must necessarily involve greater transparency as well as administrative constraints within the official institutions. Furthermore, mechanisms that detect and punish corruption and limit opportunities for corrupt behavior will assist in the cleanup effort. The media can be put to

good use in such anticorruption campaigns; publicizing and scrutinizing the behavior of public servants regularly acts as a deterrent to would-be abusers of power.

*Multilateral Agreements.* Internationally, wider reporting of suspicious transactions to the FATF of issues related to terrorism is a logical complement to effective mutual law enforcement assistance on a bilateral basis. Such reporting, symbolically, is quite significant as it demonstrates that countries are not solely responsible for the activities of transnational actors within their sovereign borders. Hand-in-hand with wider reporting, foreign countries must be urged to impose anti-money-laundering laws on alternate remittance systems and ensure that nonprofit organizations, such as charities, cannot be used to finance terrorism. This would close the door on groups that are using underground methods to obscure international money laundering and manipulation schemes.

It is evident that terrorists and criminals are more adroit than many states at adapting to the realities of a globalizing world. Governments not only must catch up to the methods being employed by such groups, but they also must surpass them by responding creatively, consistently, and quickly to new challenges. The sooner the source of funding for organized crime and terrorists can be halted significantly, the sooner their operations will be restricted. A number of multilateral and bilateral vehicles which the United States can use to elicit cooperation already exist. What is needed is the enforcement of existing methods and practices for the suppression of money laundering and manipulation. Yet more work needs to be done to understand why this problem exists and what the inherent constraints are in achieving positive results.

## Inherent Limitations

While tightening the noose around illicit financial transactions is clearly necessary, the scale of the challenge remains forbidding. To start with, policymakers face continued challenges posed by poor or uneven sharing of information between various states. Classified information cannot easily be shared with foreign nationals, complicating prosecution or extradition proceedings. A concerted effort must be made to ensure that information that is unclassified remains so in order to guarantee



that it may be shared with other countries. At the same time, more effective information-sharing necessarily requires greater numbers of analysts with expertise on the international financial system, as well as greater numbers of people in international law enforcement with fluency in foreign languages.

Beyond the problems of information-sharing, policymakers would be ill-advised to ignore the factors that impel developing and transitional economies to tolerate—indeed often to *encourage*—illicit money transactions in the first place. The so-called losers of globalization are finding it difficult to survive in an increasingly competitive and interconnected world. Hence, simply condemning such states as being uncooperative, setting standards of best practices, or increasing scrutiny by FATF member states will do little for their balance of payments deficits. Many of the states currently operating as safe havens are democratizing. Their leaders now have to respond to citizen demands for prosperity. If looking the other way means vast amounts of foreign exchange will flow into the country, governments may find themselves bending to their need for political survival first and international public opinion second.

For these reasons, economic assistance needs to be factored in as a way to cushion the impact on weak states of complying with internationally recognized anti-money-laundering regulations. After all, if financial systems were brought to the verge of bankruptcy, the countries themselves would be destabilized. Organized crime and terrorist groups could more easily infiltrate such regions, using the dual strategies of corruption and extortion of officials. Consequently, to close loopholes for money laundering and manipulation, countries in the money laundering business need to find alternate sources of foreign exchange while simultaneously detecting and preventing official state corruption.

Policymakers also need to anticipate that increasingly successful interdiction of illegal monetary transactions by law enforcement will tend to drive terrorists and criminal groups further underground or toward more sophisticated methods of evasion. Thus, to the greatest extent possible, anti-money-laundering/manipulation operations must address entire networks rather than component parts; partial quick fixes will only generate new problems. If only some members of a terrorist network are apprehended

and their assets forfeited, for example, other members will simply fill the void.

The pressures facing countries to make the global financial system more transparent are bound to increase over time, especially in the face of ongoing threats of catastrophic terrorism. The question is how to maintain the right set of incentives to elicit the collaboration of countries.

For the moment, the main obstacle that confronts cooperation on money laundering and manipulation remains the same one that plagues the detection and prosecution of terrorists and criminals more generally. Sovereign powers interpret public international law,

### **economic assistance needs to be factored in as a way to cushion the domestic impact in weak states of compliance with anti-money-laundering regulations**

treaties, and agreements discretely. Terrorists and criminals move through jurisdictions with relative ease, while state and law enforcement officials remain behind to negotiate effective instruments that transcend borders. The exigencies of political survival for some national leaders may also constrain international cooperation, if that means ultimately to surrender one's nationals to foreign law enforcement. Ironically, domestic law enforcement authorities may find that their interests are more in line with their counterparts in other states than they are with other agencies in their own governments. While none of these factors should dissuade aggressive law enforcement action against financial activity that underwrites terrorists and criminals, they do need to be considered in devising a long-term strategy for combating the problem.

Clearly, the exploitation of global financial systems by terrorists and criminals poses threats to international security that cannot be ignored. Money laundering and manipulation are problems that know no boundaries and yet are within the means of states to resolve. Meeting these challenges head-on must be part of an overall campaign plan if the global war on terrorism is ultimately to be won.

### **Notes**

A version of this paper with additional citations can be found at <[www.ndu.edu/inss/insshp.html](http://www.ndu.edu/inss/insshp.html)>

<sup>1</sup> *Money manipulation* connotes the ability to move and maneuver sums of money without detection, while *money laundering* denotes the steps by which the proceeds of a crime must be obscured and reintroduced into the financial system.

<sup>2</sup> "The Money Laundering and Financial Crimes Strategy Act of 1998" Pub.L. 105–310, U.S.C. 5340(2)(A), October 1998.

<sup>3</sup> Cash transactions comprise between two-thirds and three-quarters of all suspicious transaction reports in the Organization for Economic Cooperation and Development countries, which is surprising as the reliance on cash by the general public has decreased rapidly in favor of a reliance on credit and debit cards.

<sup>4</sup> For example, 25 pounds of \$20 bills may be carried in a briefcase, but this only amounts to \$20,000. \$1.8 million in \$20 bills weighs 184 pounds and would fit into a suitcase. Twenty million dollars weighs 2,000 pounds, and \$300 million weighs 30,000 pounds, which would require a C-130 or a cargo container to transport. One billion dollars would require a container or airplane such as a 747 with a payload of 100,000 pounds.

<sup>5</sup> I am indebted to Esther Bacon for her background research on the *bawala* system, bin Laden's financial holdings, and Somali operations in the United States.

<sup>6</sup> One of the four main committees that report directly to bin Laden. The others are military, religio-legal, and media.

<sup>7</sup> See, for example, *The 2001 National Money Laundering Strategy* (Washington, DC: U.S. Department of Treasury, Office of Enforcement in Consultation with the U.S. Department of Justice, September 2001).

<sup>8</sup> Otherwise known as the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act) Act of 2001.

<sup>9</sup> See especially Title III of *International Money Laundering Abatement and Anti-Terrorist Financing Act of 2001*.

<sup>10</sup> For the purposes of this act, foreign banks that have a correspondent banking relationship with banks in the United States are defined as being, for the purposes of summons and subpoena power, the same as a bank in the United States.

<sup>11</sup> Al-Itihaad al-Islamiya is thought to have formed in Somalia following the 1991 overthrow of Muhammad Siad Barre. It initially served as a fundraising apparatus for bin Laden's fledgling terrorist network. Prominent businessmen associated with Al-Itihad and acted as conduits for the money. Through its separate business operations, al-Itihaad al-Islamiya is one of the most financially influential groups in Somalia. Al-Itihad members control telecommunications firms and money-transfer companies. The group also profits from the trade of *khat*, a leaf that many Somalis chew.



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